

**Proposed Change to Section 2-4-103 of the Spirit Lake Law and
Order Code to Allow for the Practice of Law by Supervised
Student and Post Graduate Practitioners**

**2-4-103 Tribal Licensing of Attorneys, Supervised Student and
Post Graduate Practitioners**

A. Professional Attorneys. Professional attorneys who are not members of the Tribe, may appear on behalf of any party (except for a complaining witness in a criminal case or for a person claiming to be injured by the alleged criminal offense), in any trial or proceeding before the Courts of the Tribe, provided that they have a license in force to practice law before the Courts of the Tribe, issued by the Judicial Clerk and approved by the Chief Judge of the Tribal Court. Such a license shall be issued and approved upon the applicant complying with all of the following:

1. Filing with the Judicial Clerk an affidavit that the applicant is licensed to practice law before a United States District Court and the Supreme Court of a State of the United States.
2. Filing with the Judicial Clerk an affidavit that the applicant has studied and is familiar with the Constitution and Bylaws of the Spirit Lake Tribe, this Code, all other ordinances of the Tribe, Title 25 of the United States Code, and Title 25 of the Code of Federal Regulations.
3. Paying an annual license fee as prescribed by the Tribal Council.
4. Taking the following oath before the Judicial Clerk:
 - a. *"I do solemnly swear (or affirm) that I will support the Constitution of the Spirit Lake Tribe and the Constitution of the United State;*
 - b. *I will maintain the respect due to the Tribal Courts and their judicial officers. I will not counsel or maintain any suit or proceeding, which shall appear to me to be unjust, nor any defense unless I believe it to be honestly valid or debatable under color of law;*
 - c. *I will employ only such means as are consistent with truth and honor, and I will never seek to mislead any judge or jury by any artifice, or by false statement or misrepresentation of fact or law;*
 - d. *I will employ the highest degree of ethics and moral standards with which my profession is charged, and I will be guided at all times by the quest for truth and*

justice;

- e. In the conduct of my duties as an attorney, I will not impugn the morals, character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to honor or reputation of any person, unless required by justice of the cause for which I am charged."*

B. Exception for the Practice of Law by Supervised Student and Post Graduate Practitioners. It is in the interest of the Tribe that law students gain a competence in Indian Law and Tribal Court practices. It is also in the interest of the Tribe to ensure the availability of competent legal resources for the Spirit Lake Tribe and its community. In those interests, the Chief Judge may permit the practice of law by supervised third (3rd) year law students and law school graduates before the Tribal Court. The practice of law by Supervised Student and Post Graduate Legal Practitioners is limited to third (3rd) year law students enrolled in an ABA accredited law school and graduates of an ABA accredited law school under conditions outlined in this section of the Code.

C. Supervised Student Practitioners

1. Any Supervised Student Practitioner practicing before the Tribal Court may serve as a public defender, prosecutor or legal representative in all divisions of the Tribal Court, in all types of cases and may be privately retained, employed by the Tribe or contracted with by the Tribe.
2. Supervised Student Practitioners shall be subject to supervision by a licensed Attorney admitted to the Tribal Court and are subject to the same limitations and expectations of legal practice as provided for elsewhere in this Code.
3. The supervising attorney shall be responsible to the Tribal Court and the student's ability to practice before the Tribal Court shall be ancillary to the Tribal license of the supervising attorney.
4. To request certification, the law student and law school must submit a letter, on law school letterhead (or containing the school seal), providing the following information and stating the following:
 - a. The law student's full name, including first, middle and last name;
 - b. That the law student is duly enrolled at the time of certification and is in good standing;
 - c. That the student has completed legal studies equivalent

to at least 4 semesters of full-time study (requests made prior to completion of 4 semesters will be returned);

d. The anticipated month and year of the conferral of a law degree.

5. Once certified by the Chief Judge, the Supervised Student Practitioner shall identify themselves to each client and tribunal as a Supervised Student Practitioner and comply with the same applicable rules of court, ethics and professional conduct that apply to licensed attorneys.

D. Post Graduate Practitioner

1. Any Post Graduate Practitioner practicing before the Tribal Court may serve as a public defender, prosecutor or legal representative in all divisions of the Tribal Court, in all types of cases and may be privately retained, employed by the Tribe or contracted with by the Tribe.

2. Post Graduate Practitioners and are subject to the same limitations and expectations of legal practice as provided for elsewhere in this Code.

3. **Conditional License.** The Chief Judge may issue a conditional license to practice law for a period of twenty four (24) months and not exceed a total of forty eight (48) months, following the date of conferral of a law degree to an applicant who meets with and complies the following standards and procedures:

a. Filing with the Judicial Clerk an affidavit that the applicant has a conferred degree from an ABA accredited law school, intends to practice in the Spirit Lake Tribal Court, and attests the applicant demonstrates a fitness to practice law.

b. Submit a non-refundable \$50 fee.

c. Submit a copy of a transcript (unofficial or official) to provide verification of a conferred degree.

4. Once certified by the Chief Judge, the law Post Graduate Practitioner shall take the following actions:

a. Identify himself or herself to each client and tribunal as a Post Graduate Practitioner.

b. Notify the Spirit Lake Tribal Court if any of the following occur:

1) They register and take the bar examination in any jurisdiction.

2) They fail the bar examination in any jurisdiction.

3) They are admitted in any jurisdiction.

5. Renewal of License. Following the initial certification period of twenty four (24) months a Post Graduate Practitioner may file for renewal, in the event of bar examination failure, for another period not to exceed twenty four (24) months.

E. Termination of Certification. Termination of Supervised Student and Post Graduate Practitioner certification occurs when any of the following apply:

F. Twelve (12) months have lapsed from the certification issuance date of the Supervised Student Practitioner.

G. The Supervised Student Practitioner graduates from law school.

H. Twenty four (24) months have lapsed from the most recent certification issuance date of the Post Graduate Practitioner.

I. The supervising attorney, law school, or placement entity provides written notice to the Spirit Lake Tribal Court that the supervising lawyer is no longer willing to supervise the Supervised Student Practitioner.